

A Democracy Crisis In The Making: June 2023 Edition

★ statesuniteddemocracy.org/resources/democracy-crisis-june-2023/



In This Resource



- [Note Regarding Methodology](#)
- [Executive Summary](#)
- [Introduction](#)
- [Conclusion](#)

Key Takeaways

1. 38 states are considering 185 bills that would make it easier to overturn the will of the voters — and harder for trusted election officials to do their jobs.
2. At least eight states have withdrawn from the Electronic Registration Information Center - a bipartisan partnership of state election officials designed to improve the accuracy of states' voter rolls.
3. There is some good news. Many legislators from both parties, in an array of states, are working to proactively safeguard against election subversion.

Note Regarding Methodology

Each year, state legislators introduce thousands of bills related to elections. To create this Report, we used a combination of legislation included in the [Voting Rights Lab](#) tracker and legislative proposals that we discovered via independent research. The Voting Rights Lab tracks election-related bills under consideration each cycle.

In this report, we included legislation introduced since the start of 2023 through May 3, 2023. The States United Democracy Center, Protect Democracy, and Law Forward worked together to analyze each proposal to determine whether it would—if adopted—materially increase the risk of election subversion, and to filter out those that we concluded did not meet that criterion. A complete list of the bills that fall within the scope of this Report is included as an Appendix.

Executive Summary

This report is a partnership between the States United Democracy Center, Law Forward, and Protect Democracy.

In April 2021, we published the first edition of A Democracy Crisis in the Making: How State Legislatures Are Politicizing, Criminalizing, and Interfering with Election Administration. That Report identified a burgeoning trend in state legislatures: bills that would increase the risk of election subversion—that is, that the declared outcome of an election does not reflect the true choice of the voters. Through the 2021 and 2022 state legislative sessions, we tracked nearly 400 legislative proposals that would make election subversion more likely. Fifty-six of them ultimately became law in 26 states.

In the two years since our first Report, the danger of election subversion has drawn wider attention. During the 2022 midterm elections, the future of nonpartisan election administration was a campaign issue. Exit polling showed that “democracy” was a top concern for voters. That election came and went without major crises, and the accurate results were ultimately certified on time and in accordance with the law. Moreover, voters in certain states decisively rejected election deniers, whose beliefs were rooted in the baseless conspiracy theory that the 2020 presidential election was stolen from Donald Trump. Some states are moving towards proactively safeguarding against election subversion by advancing legislation to enhance security and privacy protections for election workers or refocusing investigative efforts on improving voter access.

These developments are cause for optimism. Yet we cannot sound the all-clear.

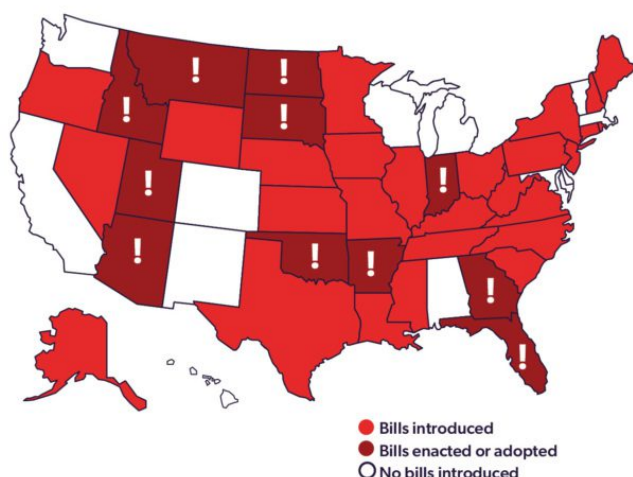


Election deniers did win key statewide and local election administration posts, as well as seats in state legislatures and Congress. As we demonstrate in this edition of the Report, the danger of a democracy crisis has not passed. In only the first few months of the 2023 state legislative year, from January 1 through May 3, we have identified 185 bills in 38 states that would increase the risk of election subversion—a pace roughly on par with that of the previous two years. This count includes bills in each of the five categories of election- subversion legislation that we outlined in previous editions of this Report. The bills we have identified in early 2023 illustrate that the election- subversion threat is evolving as legislators develop new ways to interfere with election administration and double down and expand on previous trends. Many of these bills are designed to inject confusion and delays into the election process, which increases the likelihood of attempted subversion and can give rise to disinformation, further eroding public trust and confidence in election results. **SEE CHART 1.**

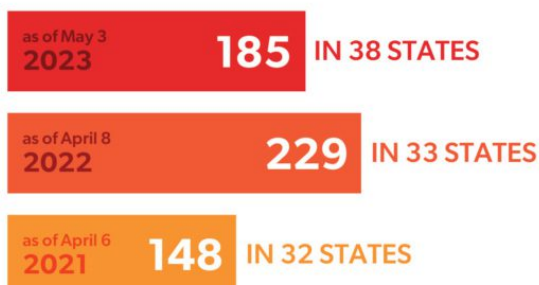
[READ THE FULL 2023 REPORT](#)

CHART 1

Bills introduced or under consideration as of May 3, 2023, that allow state legislatures to politicize, criminalize, or interfere with elections



In the first four months of 2023, a significant number of bills have been introduced that would allow legislatures to politicize, criminalize, or interfere with elections. The number of bills is on par with the number introduced in 2021 and 2022.



185 Bills Introduced
15 Bills Enacted or Adopted
3 Bills Vetoed After Passing

| | | |
|----------------|----|--|
| ALASKA | 2 | |
| ARIZONA | 18 | |
| ARKANSAS | 5 | |
| CONNECTICUT | 2 | |
| FLORIDA | 2 | |
| GEORGIA | 5 | |
| IDAHO | 2 | |
| ILLINOIS | 8 | |
| INDIANA | 4 | |
| IOWA | 3 | |
| KANSAS | 3 | |
| KENTUCKY | 3 | |
| LOUISIANA | 2 | |
| MAINE | 2 | |
| MINNESOTA | 5 | |
| MISSISSIPPI | 8 | |
| MISSOURI | 3 | |
| MONTANA | 8 | |
| NEBRASKA | 2 | |
| NEVADA | 2 | |
| NEW HAMPSHIRE | 3 | |
| NEW JERSEY | 4 | |
| NEW YORK | 2 | |
| NORTH CAROLINA | 5 | |
| NORTH DAKOTA | 2 | |
| OHIO | 1 | |
| OKLAHOMA | 4 | |
| OREGON | 3 | |
| PENNSYLVANIA | 3 | |
| RHODE ISLAND | 1 | |
| SOUTH CAROLINA | 3 | |
| SOUTH DAKOTA | 6 | |
| TENNESSEE | 2 | |
| TEXAS | 44 | |
| UTAH | 2 | |
| VIRGINIA | 5 | |
| WEST VIRGINIA | 4 | |
| WYOMING | 2 | |

The bills included in this year’s Report show that the subversion threat is very much still alive:

Usurping control over election results. These bills would give legislators or other state officials direct control over election outcomes. In one extreme example, a bill in Texas would give the secretary of state power to order a new election in the state’s most populous county under certain circumstances.²S.B. 1933, 88th Leg., Reg. Sess. (Tex. 2023). As of May 3, we have found three bills introduced that fall into this category.

Requiring partisan or unprofessional election “audits” or reviews. Extending a pattern from 2021 and 2022, legislators are considering amorphous post-election review schemes outside the professional standards of traditional post-election audits. These unprofessional reviews could promote subversion and needlessly call election outcomes into doubt. Some bills under consideration seek to review previous elections; others would introduce “forensic audits”—a term with no established meaning among election experts—for elections in the future. Other “audit” bills

provide pathways for representatives of political parties to request or initiate audits, which can become a tool to delay or cast doubt on the validity of election results. As of May 3, we have found 25 bills introduced that fall into this category.

Seizing power over election responsibilities. These bills would shift election administration responsibilities away from professional, nonpartisan officials and toward partisan actors in the legislature. In a growing and worrisome trend, some bills would block election administrators from complying with federal law or federal funding requirements without the approval of the legislature—perhaps forcing those administrators to choose between complying with state and federal law. As of May 3, we have found 31 bills introduced that fall into this category.

Creating unworkable burdens in election administration. These bills would interfere with the basic procedures of election administration, increasing the risk of chaos and delay and enabling specious claims of irregularity that could be a pretext for subversion. Accelerating trends in this category include bills that would block alternative sources of funding for already strapped election offices, bills that would mandate burdensome and error-prone hand counts of ballots, bills that would enable efforts to swamp election administrators with records requests, and bills that would hamper the ability of election administrators to ensure safe in-person voting. As of May 3, we have found 104 bills introduced that fall into this category.

Imposing disproportionate criminal or other penalties. These bills would create or expand penalties for election officials in the ordinary execution of their jobs, including criminalizing inadvertent mistakes. Many of these bills would heighten the atmosphere of unwarranted suspicion that already surrounds election officials; some would create entirely new investigative bodies or law enforcement agencies and ratchet up fear among election officials. As of May 3, we have found 73 bills introduced that fall into this category. **SEE CHART 2**

CHART 2**State-by-state legislative interference by category**

| | 1 Usurping Control | 2 Unprofessional Audits | 3 Seizing Responsibility | 4 Creating Burdens | 5 Imposing Penalties |
|----------------|---------------------------------|--------------------------------------|---------------------------------------|---------------------------------|-----------------------------------|
| ALASKA | | X | X | | |
| ARIZONA | X | X | X | X | X |
| ARKANSAS | | | | X | X |
| CONNECTICUT | | | | X | |
| FLORIDA | | | | | X |
| GEORGIA | | | | X | X |
| IDAHO | | | | X | |
| ILLINOIS | | | | X | X |
| INDIANA | | X | X | X | X |
| IOWA | | X | | X | |
| KANSAS | | X | X | X | X |
| KENTUCKY | | X | | X | X |
| LOUISIANA | | | X | X | X |
| MAINE | | | X | X | |
| MINNESOTA | | X | | X | |
| MISSISSIPPI | | X | X | X | X |
| MISSOURI | | | X | X | X |
| MONTANA | | | X | X | X |
| NEBRASKA | | | | X | X |
| NEVADA | | | | | X |
| NEW HAMPSHIRE | | X | | | X |
| NEW JERSEY | | | | X | X |
| NEW YORK | | X | | | |
| NORTH CAROLINA | | | | X | X |
| NORTH DAKOTA | | | | X | |
| OHIO | | | | | X |
| OKLAHOMA | | | | X | X |
| OREGON | | | | X | X |
| PENNSYLVANIA | | | X | X | X |

| | | | | | |
|--|----------|-----------|-----------|------------|-----------|
| RHODE ISLAND | | | | | |
| SOUTH CAROLINA | | X | | X | |
| SOUTH DAKOTA | | X | X | X | X |
| TENNESSEE | | | | X | |
| TEXAS | X | X | X | X | X |
| UTAH | | | | X | X |
| VIRGINIA | | X | | X | |
| WEST VIRGINIA | | | X | X | X |
| WYOMING | | | X | X | X |
| TOTAL NUMBER of bills that fall into the categories | 3 | 25 | 31 | 104 | 73 |

Chart 2: analyzes select bills in *A Democracy Crisis in the Making*

At the same time, election-subversion threats have continued outside state legislatures. At least eight states have withdrawn from the Electronic Registration Information Center (ERIC), an organization that helps state election officials maintain accurate voter rolls and prevent illegal voting. In Alabama, Missouri, and West Virginia, the ERIC withdrawal was initiated by a secretary of state who is an election denier. Until recently, this organization was supported by state election officials from across the country and the political spectrum, but it has been targeted by a relentless disinformation campaign. In addition, states face a “brain drain” as nonpartisan election administrators, hampered by chronic underfunding and hounded by threats and harassment, leave their jobs.

Finally, in the 2022 election cycle, local election officials in at least five states refused to certify accurate election results.

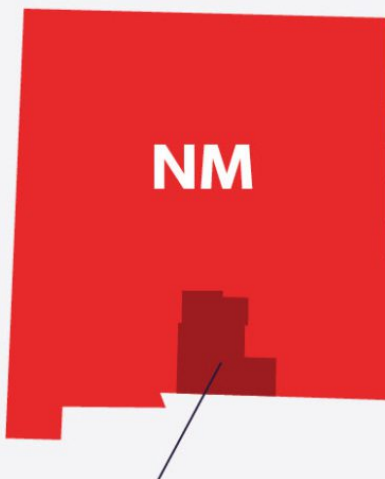
Each of those states’ results were ultimately certified, sometimes after a court order, but these rogue refusals highlight a discouraging trend and a danger to what should be routine practice—the lawful affirmation of the will of the people.

REFUSAL TO CERTIFY

Local officials in Arizona, Nevada, New Mexico, North Carolina, and Pennsylvania refused to certify the 2022 election results.



COCHISE COUNTY officials in Arizona refused to certify the 2022 election results, despite repeated warnings that such a course of action would be illegal.

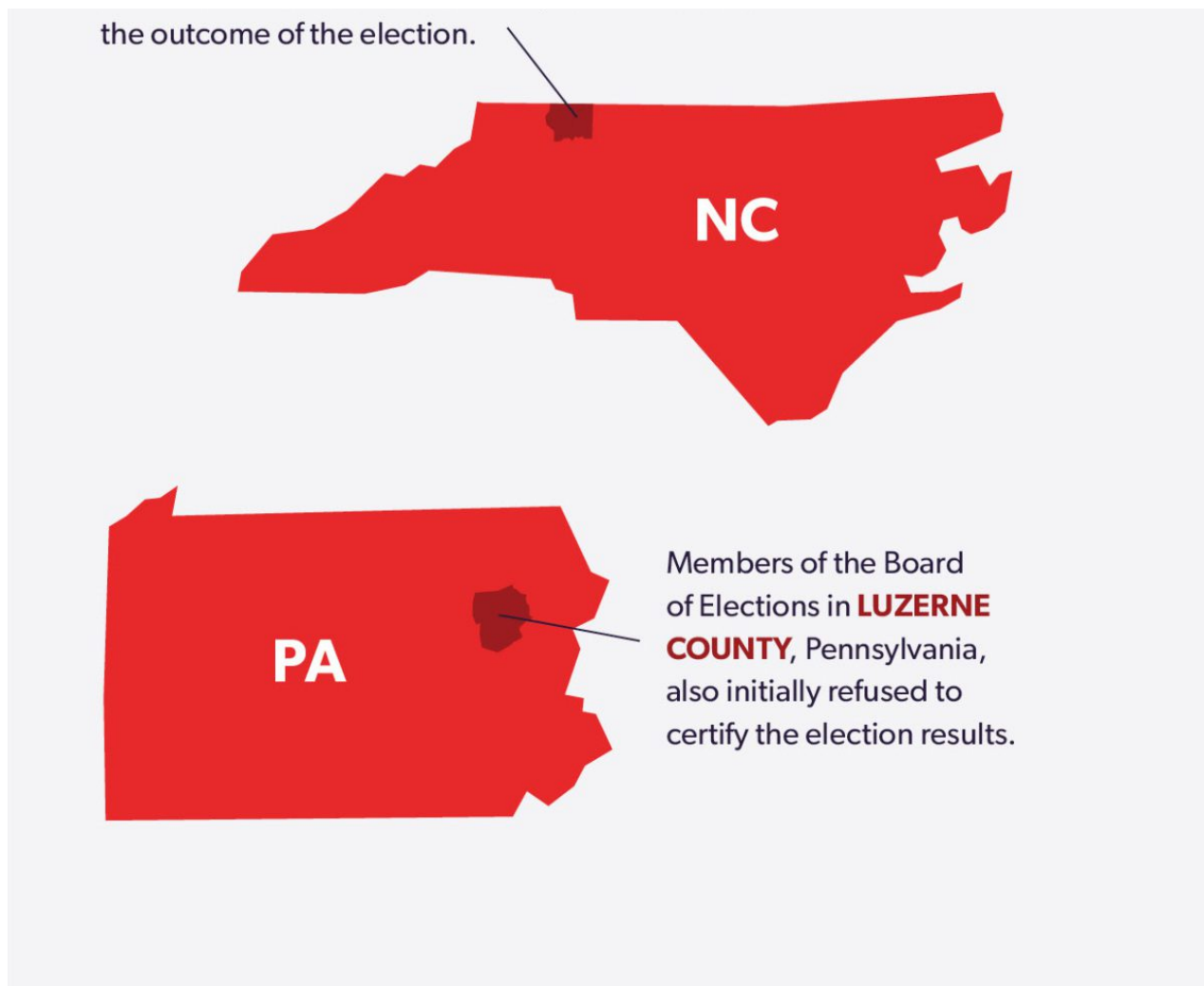


In **OTERO COUNTY**, New Mexico, the county's three commissioners initially voted unanimously against certifying the June 2022 primary elections.



In Nevada, one commissioner in **WASHOE COUNTY** and another in **NYE COUNTY** refused to certify, though in both cases the other four commissioners outvoted them.

Election officials in **SURRY COUNTY**, North Carolina questioned the legitimacy of the state's election laws, court decisions on election procedures, and



Introduction

We released the first version of this Report in the aftermath of the 2020 election. At that time, we were just a few months removed from a violent attempt to overturn the results of the election and were just beginning to recognize the ongoing and substantial role that election conspiracy theories and election denialism would play in our political system. In short, it was becoming increasingly evident that the attempt to subvert the 2020 election was not an anomaly in the history of our democracy but rather part of a sustained movement to introduce confusion and disruption into the election process and undermine confidence in our elections.

It soon became clear that state legislatures would be important in determining the health of our democracy—capable of mitigating or exacerbating the subversion threat. In our initial Report, we described a disturbing trend of state legislatures attempting to change election law in ways that would undermine our election system and make it far easier for partisan actors to interfere with or manipulate the results—or even to overturn the will of the voters outright. Over the last two years, as we have released new versions of this Report and interim updates, that trend has evolved, but it has not abated. During the 2021 and 2022 state legislative sessions, we tracked nearly 400 legislative proposals that we assessed would, if passed into law, increase the risk of election subversion directly or indirectly.

Reflecting on the 2022 midterms and the state of American democracy, there certainly have been some positive developments that give reasons for optimism. In the 2022 midterm elections, voters in critical states overwhelmingly rejected election denier candidates who were running for statewide offices with some responsibility for administering or certifying elections.

⁴Adam Edelman, "Election deniers overwhelmingly lost battleground states—runners for 2024," *The States United Democracy Center*, *Replacing the Rers* (Dec. 7, 2022), <https://www.statesunited.com/politics/2022-election/election-deniers-overwhelmingly-lost-battleground-states-runners-for-2024/>.

2022), <https://statesuniteddemocracy.org/resources/replacingtherefs/>. And, with a few notable exceptions, those losing candidates quickly conceded defeat.⁵ Heidi Przybyla, "Trump's election conspiracy boosters largely accept their own defeats," *Politico*, Nov. 13, 2022, <https://www.politico.com/news/2022/11/13/trump-election-deniers-accept-2022-results-00066626>. Furthermore, in several states that were hotbeds of legislative activity that would have increased the risk of election subversion, the composition of the legislature has changed such that their new majorities reject election denialism.⁶ Molly Hennessy-Fiske and Paul Kane, "Democrats surged to flip state legislatures, denying past GOP gains," Nov. 12, 2022, <https://www.washingtonpost.com/politics/2022/11/12/democratic-state-legislatures-midterms/>. As we said in our December 2022 Report update: "the decreased likelihood of subversion legislation being passed and the decreased likelihood of state executive branch officials engaging in subversion even if the legislature encourages it...reduce the risk of election subversion in the 2024 election."⁷ The States United Democracy Center, Protect Democracy, and Law Forward, *A Democracy Crisis in the Making* Report Update: 2022 Year-End Numbers, (Dec. 14, 2022): 2, <https://statesuniteddemocracy.org/resources/dcitm-december-2022/>.

Many of the bills that we have tracked in previous versions of the Report have not become law. And of those that have—a total of 56 new laws enacted in 26 states in 2021 and 2022—none led to a full on crisis in the midterms, at least from a subversion perspective. (Whether recently enacted legislation had an impact on the ability of voters to cast their votes is outside the scope of this Report.)



Despite these positive developments, we believe that tracking legislative proposals that would increase the risk of election subversion is imperative for at least five reasons.

READ THE FULL 2023 REPORT

Conclusion

The 2020 and 2022 elections were conducted fairly, counted accurately, and certified under the law. That is a testament to thousands of election officials who, in each state, acted in good faith and fulfilled their duties. The election system can always be improved, but the system is not broken: statewide canvasses, professional post-election audits, and countless legal decisions have validated these results over and over. The bills described in this Report would only create problems and introduce confusion into our election process.

The decisions being made in statehouses this year will help determine how the 2024 election is conducted. Unfortunately, the bills we describe in Part III of this Report lay the groundwork for any number of scenarios that could allow for election subversion. As we explained, if subversion does happen, it is unlikely to be as blatant as throwing out the election results altogether and installing a handpicked winner—although bills in Texas do allow for calling an entirely new election in a handful of targeted counties. The far likelier scenario is disorder and confusion. To take just a few examples: Fair election results could be needlessly called into doubt by unprofessional and partisan reviews. Mandatory hand counts of ballots could introduce human errors and delay results such that states sail past certification deadlines. Election workers, threatened with prosecution for even minor missteps, could be cowed from responding to poll watchers disrupting the vote. Election administrators could be left with an impossible choice between obeying federal or state law. Any of these scenarios could create a pretext for partisan actors to throw up their hands, declare that the will of the people is for them to discern, and subvert an election. Even if such a scenario does not come to pass, many of these bills are grounded in conspiracy theories and—even if they never become law—further seed the ground with disinformation and erode trust in our elections, not to mention fuel the continued threats to and harassment of election administrators.

As we noted in the December 2022 edition of this Report, the results of the midterm election lowered the risk of election subversion in 2024. In at least some critical states, the defeat of election deniers in statewide races can give voters more confidence that their choices will be respected in the next election. In addition, legislators in an array of states, including members of both parties, are moving to enhance protections for election workers and to counter the inexcusable climate of harassment they have faced because of persistent disinformation. We can take heart from these efforts to bolster protections for our democratic institutions and for the people who sustain them.

But we cannot end our vigilance. Across the country, state legislators are plainly still committed to seizing more power over the administration of elections and, directly or indirectly, more power to influence election results. Bills that would increase the risk of election subversion are showing up in state legislatures this year at roughly the same pace as during the previous two years. The threat is evolving, but it is not receding.

Voters should be awake to this persistent threat. And state legislatures should focus their efforts on bolstering the nonpartisan administration of elections, protecting election officials, and respecting the will of the people. Until they do, our democracy is still far too close to a crisis.

[READ THE FULL 2023 REPORT](#)